

SENATE BILL No. 540

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-2.1.

Synopsis: Application of quality review standards. Changes the membership of the state board of accountancy. Permits individuals to receive certification as an accounting practitioner even if the state board of accountancy fails to establish the test required by law. Specifies conditions that the rules requiring quality reviews of certified public accountants and public accountants who perform attest functions. Indicates that accounting practitioners may perform compilations. Changes to 2007 the renewal date for certain firm permits that would have expired in 2006.

Effective: Upon passage; November 12, 2004 (retroactive); July 1, 2005.

Young R Michael

January 20, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 540

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-2.1-1-13.6 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2005]: **Sec. 13.6. "Small business" has the**
4 **meaning set forth in 5 U.S.C. 601.**

5 SECTION 2. IC 25-2.1-2-3 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The board
7 consists of six (6) members appointed by the governor.

8 (b) ~~Four (4) members~~ **One (1) member** must meet the following
9 conditions:

10 (1) Be a resident of Indiana.

11 (2) Be a certified public accountant under IC 25-2.1-3 or
12 IC 25-2.1-4.

13 **(3) Be a partner, shareholder, member, or full-time employee**
14 **of a CPA firm that has, in total, less than five (5) partners,**
15 **shareholders, or members.**

16 (c) **One (1) member must meet the following conditions:**

17 **(1) Be a resident of Indiana.**

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(2) Be a certified public accountant under IC 25-2.1-3 or IC 25-2.1-4.

(3) Be a partner, shareholder, member, or full-time employee of a CPA firm that has at least five (5) partners, shareholders, or members.

(d) One (1) member must meet the following conditions:

(1) Be a resident of Indiana.

(2) Be ~~certified as~~ a public accountant **who holds an active certificate under this article** or an accounting practitioner **who holds an active certificate** under IC 25-2.1-6.

(e) One (1) member must meet the following conditions:

(1) Be a resident of Indiana.

(2) Be a consumer:

(A) who:

(i) is not ~~and has never been~~ certified under this article ~~but~~ **or its predecessor laws; and**

(ii) ~~does not hold and has never held a certification from another state that is substantially equivalent to a certification under this article;~~

(B) ~~has acquired substantially all the individual's professional or practical experience in the use of accounting services by and financial statements that of nonprofit entities; and~~

(C) ~~whose professional or practical experience is sufficient to qualify the individual to make judgments about the qualifications and conduct of individuals and firms under this article.~~

(f) One (1) member must meet the following conditions:

(1) Be a resident of Indiana.

(2) Be a consumer:

(A) who:

(i) is not ~~and has never been~~ certified under this article ~~or its predecessor laws; and~~

(ii) ~~does not hold and has never held a certification from another state that is substantially equivalent to a certification under this article;~~

(B) ~~has acquired substantially all the individual's professional or practical experience in the use of accounting services by and financial statements of small businesses; and~~

(C) ~~whose professional or practical experience is sufficient to qualify the individual to make judgments about the~~

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1 **qualifications and conduct of individuals and firms under**
 2 **this article.**

3 **(g) One (1) member must meet the following conditions:**

4 **(1) Be a resident of Indiana.**

5 **(2) Be employed by an approved institution of higher learning**
 6 **(as defined in IC 20-12-21-3).**

7 **(3) Not be a member of or otherwise affiliated with the**
 8 **Indiana CPA Society, the American Institute of Certified**
 9 **Public Accountants, or the Indiana Society of Public**
 10 **Accountants.**

11 **(4) Have sufficient teaching experience in any of the following**
 12 **subjects to qualify the individual to make judgments about the**
 13 **qualifications and conduct of individuals and firms under this**
 14 **article:**

15 **(A) Accounting.**

16 **(B) Auditing.**

17 **(C) Management advisory, financial advisory, or**
 18 **consulting services.**

19 **(D) The preparation of tax returns or the furnishing of**
 20 **advice on tax matters.**

21 SECTION 3. IC 25-2.1-5-8 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE NOVEMBER 12, 2004 (RETROACTIVE)]:
 23 Sec. 8. (a) The board may adopt rules that require as a condition to
 24 renew a permit under this chapter, that an applicant undergo, not more
 25 than once every three (3) years, a quality review conducted in a manner
 26 the board specifies.

27 (b) If the board adopts rules under subsection (a) **and**
 28 **IC 25-2.1-2-15(7)**, the rules must:

29 (1) be adopted reasonably in advance of the time when a quality
 30 review first becomes effective;

31 (2) include reasonable provision for compliance by an applicant
 32 showing that the applicant has in the preceding three (3) years
 33 undergone a quality review that is a satisfactory equivalent to the
 34 quality review required under this section;

35 (3) require, with respect to quality reviews under subdivision (2),
 36 that the quality review be subject to review by an oversight body
 37 established or sanctioned by the board that shall periodically
 38 report to the board on the effectiveness of the review program and
 39 provide to the board a listing of firms that have participated in a
 40 quality review program; ~~and~~

41 (4) require, with respect to quality reviews under subdivision (2),
 42 that:

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(A) the proceedings, records, and work papers of a review committee are privileged and are not subject to discovery, subpoena, or other means of legal process or introduction into evidence in a civil action, arbitration, administrative proceeding, or Indiana board of accountancy proceeding; and (B) that a member of the review committee or individual who was involved in the quality review process is not permitted or required to testify in a civil action, arbitration, administrative proceeding, or Indiana board of accountancy proceeding to matters:

(i) produced, presented, disclosed or discussed during, or in connection with, the quality review process; or

(ii) that involve findings, recommendations, evaluations, opinions, or other actions of the committee or a committee member;

(5) specify that completion and acceptance by the oversight body of a quality review of a firm that has not performed any attest engagements after the latest of:

(A) the date the firm's permit was issued;

(B) June 30, 2005; or

(C) the date that the firm's permit was last renewed; is not a condition of renewal of a permit;

(6) specify that the quality review standards of the National Society of Accountants shall be treated as equivalent to the quality review standards of the American Institute of Certified Public Accountants and a quality review of a firm conducted in conformity with either set of standards, at the election of the firm, shall be meeting any quality review requirements imposed under this article; and

(7) specify that completion and acceptance by the oversight body of any component of a quality review of a firm that constitutes a systems review or an engagement, as those terms are defined in the standards incorporated by reference into 872 IAC 1-6-11, is not a condition for the renewal of a permit for a firm:

(A) that has not performed more than fifteen (15) attest engagements after the latest of:

(i) the date the firm's permit was issued;

(ii) June 30, 2005, if the permit expires after June 30, 2005; or

(iii) the date that the firm's permit was last renewed; and

(B) whose attest engagements were limited to entities that

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1 **qualify as small business entities without publically traded**
 2 **securities, or nonprofit entities.**

3 SECTION 4. IC 25-2.1-6-1 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A certificate
 5 shall be granted by the board to any individual who:

6 (1) is at least eighteen (18) years of age;

7 (2) has not been convicted of:

8 (A) an act that would constitute a ground for disciplinary
 9 sanction under IC 25-2.1-8; or

10 (B) a felony that has a direct bearing on the applicant's ability
 11 to practice competently;

12 (3) has met either of the following education and examination
 13 requirements:

14 (A) Graduation with a two (2) year associate degree from an
 15 accredited business college, college, or university recognized
 16 by the board, the total educational program to include an
 17 accounting concentration or equivalent, and passage of an
 18 examination established by the board in accounting theory and
 19 practice.

20 (B) Graduation with a baccalaureate degree conferred by a
 21 college or university recognized by the board and the
 22 satisfactory completion of the semester hours in accounting,
 23 business administration, economics, and other related subjects
 24 as the board determines to be appropriate, and passage of an
 25 examination established by the board in accounting theory;
 26 and

27 (4) meets the experience requirements set forth in subsection (b).

28 (b) A person who submits an application for the initial issuance of
 29 a certificate under this chapter after June 30, 2001, shall show that the
 30 applicant has two (2) years of experience that meets the requirements
 31 of the board. To qualify as experience under this section, the
 32 experience must be verified by a licensee.

33 **(c) If a person submits an application for an accounting**
 34 **practitioner's certificate after June 30, 2005, and the board has not**
 35 **established the test required under P.L.128-2001, SECTION 52(a),**
 36 **the board shall give an applicant the test established by the board**
 37 **before July 1, 2002. An applicant subject to this subsection shall be**
 38 **required to pass the test established by the board before July 1,**
 39 **2002, in order to receive an accounting practitioner's certificate**
 40 **under this chapter.**

41 SECTION 5. IC 25-2.1-6-5 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) An

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individual who is registered with the board to practice accounting as an accounting practitioner and holds a valid certificate issued under section 1 of this chapter or renewed under IC 25-2.1-4 may be known as an "accounting practitioner" and may use the abbreviation "AP".
However,

(b) Subject to subsection (c), an individual registered as an accounting practitioner may not prepare or render accounting opinions or certificates for any purpose, including financial statements, schedules, reports, or exhibits for publication, credit purposes, and use in a court.

(c) An individual registered as an accounting practitioner may:

(1) prepare a compilation, including any related schedules and exhibits, and issue a report on a compilation of financial information of another individual, member, organization, or governmental unit; and

(2) prepare a tax return, including any related schedules and exhibits.

SECTION 6. IC 25-2.1-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in subsection (b), an individual or a firm not holding a valid CPA or public accountant certificate under this article or permit under IC 25-2.1-5 may not issue a report on financial statements of another individual, member, organization, or governmental unit.

(b) Notwithstanding subsection (a):

(1) an officer, a partner, or an employee of a firm or an organization may sign a statement or report in reference to the financial affairs of the firm or organization with any wording designating the position, title, or office that the signor holds; and

(2) a public official or employee may, in the performance by an individual of other services, use accounting skills, including the preparation of tax returns, management advisory services, and the preparation of financial statements without the issuance of reports related to those documents; and

(3) an individual or a firm holding a valid accounting practitioner certificate under this article or registration under IC 25-2.1-6 may issue a report on a compilation of financial information of another individual, member, organization, or governmental unit.

(c) A CPA, or a public accountant, or an accounting practitioner may not issue a report in standard form upon a compilation of financial information through any form of business that does not hold a valid permit issued under IC 25-2.1-5 unless the report discloses the name

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of the business through which the individual is issuing the report, and the individual:

- (1) signs the compilation report identifying the individual as a CPA, ~~or a public accountant,~~ **or an accounting practitioner**; and
- (2) meets the competency requirement provided in applicable standards.

SECTION 7. [EFFECTIVE NOVEMBER 12, 2004 (RETROACTIVE)] **(a) The definitions in IC 25-2.1 apply throughout this SECTION.**

(b) Notwithstanding IC 25-2.1-5-2, an initial or renewed permit that would otherwise expire in 2006, is extended and expires June 30, 2007. The June 30, 2007, date shall be treated as the end of the renewal period for all purposes.

(c) An individual who:

- (1) is a member of the state board of accountancy on June 30, 2005; and**
- (2) as a result of the amendment of IC 25-2.1-2-3 by this act no longer qualifies to hold that position after June 30, 2005; may not hold over as a member of the board until the member's successor is appointed and qualified. If more than one (1) member of the board on June 30, 2005, could qualify for continued membership on the board after June 30, 2005, but there are insufficient positions after June 30, 2005, for all the similarly situated members to continue to serve on the board, the governor shall designate which members are retained as members of the board. A member of the board who is retained under this SECTION is eligible after June 30, 2005, to serve the remaining unexpired term of the member. The initial individual appointed to replace a disqualified member is eligible after June 30, 2005, to serve the unexpired term of the member that the appointee replaces.**

(d) 872 IAC 1-6 is void to the extent that it conflicts with the following:

- (1) IC 25-2.1-5-8, as amended by this act.**
- (2) IC 25-2.1-12-2, as amended by this act.**
- (3) This SECTION.**

SECTION 8. An emergency is declared for this act.

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